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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/913,865 | 01/25/2002 | Roman Cetnar | 19339-087909 | 5505 |

7590 01/13/2004

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| EXAMINER |
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HO, THOMAS Y

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| ART UNIT | PAPER NUMBER |
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3677

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,865

Applicant(s)

CETNAR ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 1 and 7-8 are objected to because of the following informalities:

As to claims 1 and 8, it is unclear whether the "release lever" in claim 1 is also the "manual release lever" in claim 8.

As to claim 7, the drawings never show the ratchet 50 contacting the second switch 78, and it appears that the ratchet only contacts the first switch 76.. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogakos US4763936 in view of Baukholt US5992194, and further in view of Brackmann US5137311.

As to claim 1, Rogakos discloses, a power door latch assembly for engaging a door striker, comprising: a ratchet 34,62 for engaging the striker 12, the ratchet being rotatable between a closed position and an open position and including at least one detent surface 68,70 and biasing member (col.3, ln.56-69) for biasing the ratchet towards the open position; a pawl 76 for engaging the at least one detent surface to selectively resist rotation of the ratchet towards the open position (see Figure 3); a rotary actuator 58,60 for rotating the ratchet toward the closed

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position and for disengaging the pawl from the at least one detent surface; a drive actuator 42,110 including a prime mover 42, an output member 110 in engagement with the rotary actuator, and a clutch 116 coupled between the prime mover and the output member for selectively transferring torque between the prime mover and the rotary actuator (col.4, ln.39-68; col.5, ln.1-2; col.9, ln.1-27); a drive controller 118, Figure 7a for controlling the operation of the drive actuator, the drive controller being coupled to the clutch and being configured for disengaging the prime mover from the rotary actuator when the ratchet is disposed in one of the closed and open positions (col.9, ln.1-27); and said rotary actuator having a cinching arm 130 engaging said ratchet upon rotation of said rotary actuator in a first sense to rotate the ratchet towards the closed position, and said rotary actuator having a relating arm 96 engaging said pawl upon rotation of said rotary actuator in a second sense opposite said first sense to disengage the pawl from the at least one detent surface; a release lever 166 including an arm 98 extending out therefrom, said release lever pivotally secured to said pawl such that said release lever rotates when said pawl rotates. The difference between the claim and Rogakos is the claim recites, a first switch for selectively operating said when said ratchet is disposed in the closed position said first switch stopping said prime mover only when said first switch is closed (the limitations "for selectively operating...when...closed" are functional and fail to further define any structural elements of the claimed invention, and focus only on the function of the first switch, and so these limitations hold little patentable weight); and a second switch for starting operation of said prime mover (the limitation "for starting...mover" is purely functional language and holds little patentable weight because it fails to structurally define an element of the claimed invention), said second switch actuated by said arm of said release lever only when said pawl engages said detent

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surface.

Baukholt discloses a door latch assembly similar to that of Rogakos. In addition, Baukholt further teaches a first switch 1.11 contacting the ratchet 1.1 (equivalent to the structural relationship shown in Applicant's drawings). It would have been obvious to one of ordinary skill in the art, having the disclosures of Rogakos and Baukholt before him at the time the invention was made, to modify the latch of Rogakos to have a first switch, as in Baukholt, to obtain a ratchet that contacts a switch. One would have been motivated to make such a combination because the ability to sense the position of the ratchet would have been achieved, as taught by Baukholt (col.5, ln.1-25, ln.40-67).

Brackmann discloses a door latch assembly similar to that of Rogakos. In addition, Brackmann further teaches a second switch 10 actuated by an arm 5b of a release lever 5 only when a pawl 3 engages a ratchet 2 (see Figure 1-2). It would have been obvious to one of ordinary skill in the art, having the disclosures of Rogakos and Brackmann before him at the time the invention was made, to modify the latch of Rogakos to have a second switch, as in Brackmann, to obtain a second switch associated with a release lever. One would have been motivated to make such a combination because the ability to provide limit switches to stop and start actuation of the motor would have been achieved, as taught by Brackmann (col.3, ln.15-20).

As to claim 2, Rogakos discloses, wherein the rotary actuator 58,60 is rotatable through a null position wherein the rotary actuator is disengaged from the ratchet 34,62 and the pawl 76. The null position is when the rotary actuator is not engaged with either of the parts 96 or 130.

As to claim 3, Rogakos discloses, wherein the drive controller 118, Figure 7a is configured for disengaging the prime mover 42 from the rotary actuator 58,60 when the rotary

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actuator is disposed in the null position.

As to claim 4, Rogakos discloses, wherein the rotary actuator 58,60 includes a lost motion linkage for allowing limited rotational movement of the ratchet 34 relative to the rotary actuator when the ratchet is disposed in the open position (col.6, ln.5-21).

As to claim 5, Rogakos discloses, wherein one of the at least one detent surfaces 68,70 is disposed for providing in cooperation with the pawl 76 a partially open position (at 68) between the open and closed positions, and the limited rotational movement is provided between the open and partially open positions.

As to claim 7, Baukholt teaches, wherein said ratchet 1.1 includes a cam surface disposed for engagement with the second (first?) switch 1.11 when the ratchet is disposed in the closed position (see Figure 1A).

As to claim 8, Rogakos discloses, including a manual release lever 166, and the pawl 76 includes an arm 98 coupled to the release lever for releasing the pawl from the ratchet upon activation of the release lever.

As to claim 9, Rogakos discloses, wherein the ratchet 34,62 is disposed for rotation about a first axis 40, and the pawl 76 is disposed for rotation for about a fixed axis 80 parallel to the first axis.

As to claim 10, Rogakos discloses, wherein the drive actuator 42,110 is disposed for rotation about the first axis 40.

Response to Arguments

Applicant's arguments with respect to claims 1-5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

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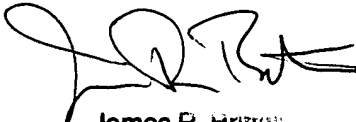
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH



James R. Brittain
Primary Examiner